

City of St. Joseph

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March 14, 2006

Dear Chairman Turner:

On behalf of the City St. Joseph, I want to advise you of the efforts and accomplishments made in the St. Joseph community with respect to Brownfields redevelopment utilizing EPA grant funds and how proposed changes to Tax Increment Financing and Eminent Domain could affect the future of Brownfields redevelopment efforts across the country. St. Joseph's Riverfront Industrial Redevelopment Area is viewed as an important revitalization project towards successful inner city revitalization.

Riverfront Industrial Redevelopment Area

The City began to experience declining industry south of its Downtown during the 1970's as industries began to move away from the area. Abandoned buildings and vacant lots began to blight this area, known as the Riverfront Industrial Redevelopment Area and investment was inhibited in this area by perceived environmental contamination and the refusal of the railroad to sell property they control. In 2000, the United States Environmental Protection Agency awarded the City of St. Joseph, Missouri for a Brownfields Assessment Demonstration Pilot Grant to help redevelop a 244-acre Riverfront Industrial Redevelopment Area located south of Downtown along the Missouri River. With the assistance of EPA through this Assessment Grant, the City of St. Joseph was able to identify environmental constraints holding this property back from redevelopment.

Many areas across the country once used for industrial purposes sit abandoned or underused. Some are contaminated, many are only assumed to have environmental problems. Those with contamination are frequently manageable within normal reconstruction budgets. Because lenders, investors, and developers fear they may be pulled into cleaning up environmental problems they did not create, they are more attracted to developing sites in pristine areas, called "greenfields". The result can be that otherwise viable properties become blighted areas of abandoned industrial or commercial facilities. Other times, these areas are simply passed over and do not reach their best redevelopment potential. These types of areas are identified as "Brownfields".

Through the help of EPA's Brownfield Economic Redevelopment Initiative, cities have been able to prevent, assess, and safely clean up and reuse Brownfields properties. EPA's Brownfields Initiative identifies and addresses barriers to cleanup and redevelopment. It recommends swift, aggressive measures for change within and external to the context of the existing Superfund law. Through the assistance of EPA, the City of St. Joseph was able to use grant funds to assess property owned by Burlington Northern Santa Fe (BNSF) railroad within the proposed redevelopment area. The City's

ultimate goal for this area is to attract new investment and thereby, create new jobs, remove blight, raise property values, and foster economic vitality.

Most rail companies are private companies that are responsible for making profits for their shareholders. As private entities, rail companies are not likely to transfer a property unless there is a tangible benefit. According to rail companies, a common hurdle in disposing of Brownfields's is the misconception that all rail properties are large, polluted areas. In our case, we found that BNSF was not interested initially in confronting the stigma associated with their property by working with the City using grant funds from EPA to perform an assessment on their property. Since environmental contamination on a property is the responsibility of the property owner, often if contamination is found during an assessment of the Brownfields's site, all of the liability rests on with the property owner. This fear creates a major disincentive for rail companies to proceed with local governments in redevelopment of their land.

BNSF's fear of having the environmental assessment performed on property they had no intention to sell resulted in a stalemate to move discussion forward to allow the City to acquire this property for the purpose of economic development. One tool the City was able to use in this situation was the ability to seek condemnation efforts through the eminent domain process. In this particular case, the City of St. Joseph was in a position to use its power to acquire property owned by BNSF for the benefit of the public to create new jobs in an area that was currently vacant under utilized railroad property.

Prior to this project, the majority of eminent domain and condemnation actions undertaken by the City of St. Joseph has been for the purposes of constructing public infrastructure such as sewers and streets, revitalizing long-abandoned residential properties in long-forgotten neighborhoods and providing financial incentives to build housing for low-to-moderate income persons on properties already owned by the developer. The City of St. Joseph has never engaged in a condemnation proceeding that would take private property from one owner only to give that same property to a different property owner for economic development purposes. In this case without this tool, the City would have not been able to proceed with the redevelopment of this Brownfields site and the property would never have been considered for redevelopment.

The City is concerned with proposed changes that would limit how communities throughout the Country could use this tool for economic development purposes for not only redevelopment of Brownfields but also other economic development projects nationwide. The City of St. Joseph hopes that restrictions on the use of the eminent domain as an economic development tool because of abuses, real or perceived, will not prohibit Brownfields redevelopment efforts.

Absent sufficient condemnation authority in St. Joseph would have prohibited this project from moving forward. Most proposed eminent domain changes assume that all private ownership is responsible ownership, which, of course, we know is not true. All one has to do is drive around St. Joseph and other communities to learn that many private property owners have long ago relinquished their maintenance and property owner responsibilities, if not their legal ownership. Having governments or other private property owners assume those responsibilities for the benefit of neighborhoods would seem to be a preferred alternative than the dire consequences that would

result from the imposition of more restrictive, time consuming and costly eminent domain legislation.

The City of St. Joseph was successful in pursuing negotiations with BNSF on property they own by introducing them to the State of Missouri's voluntary cleanup program (VCP). Enrollment in the VCP allows a property owner, local government, and state environmental regulatory agency to work together throughout the cleanup process.

After solving the issue of acquisition, the success of this project began with a strong relationship with BNSF and the City of St. Joseph to identify what the end use would be for the property. This communication process allows the opportunity for the rail company to work with the local government to define what type of business will locate on this site that will benefit the rail company as well as the community.

Rail companies are motivated by the market. Creating a situation that rewards these companies for working with local governments for redevelopment efforts is critical in enticing rail companies to participate in the process of Brownfield redevelopment. While the rail companies are interested in working with local governments and state and federal agencies on redeveloping former rail properties, now called Brownfields, ultimately the property transaction must be financially beneficial to the rail company. Local governments should use available incentives to ensure that the property transactions and redevelopment plans succeed. Tax incentives are a good tool to entice companies to locate on these Brownfields sites but government also needs to develop a tax credit program or a program that allows rail companies to donate their vacant land to benefit economic development efforts throughout the country. Providing incentives to rail companies to dispose of property they no longer utilize for rail service would help significantly in the redevelopment of Brownfields properties throughout the nation. Increasing the options for communities to negotiate with railroad companies when developing Brownfields sites will help to redevelop Brownfields areas quicker. The City of St. Joseph is excited about your recent proposal to create tax credit incentives for Brownfields cleanup and redevelopment efforts. This type of program will help to stimulate private investment in Brownfields areas.

In addition to providing incentives to assist cleanup and acquisition efforts during the initial phase of Brownfield redevelopment projects, to encourage private investment other incentives are needed on the backside of these projects. Tax Increment Financing District (TIF) is an economic development tool that is currently used widely to stimulate private investment in Brownfields areas. St. Joseph's use of TIF has been limited and has been recently utilized to achieve specific community priorities with respect to the creation of jobs and retail shopping amenities that are important to future job creation. St. Joseph's TIF's are dispersed geographically (north, south, east and west) throughout the City to promote opportunities in a variety of industries (pork processing, hotel services, retail shopping, medical/ physician services, food service/restaurants and market rate housing). We doubt that there has been any better or more diverse use of TIF anywhere in Missouri than in the City of St. Joseph.

It is important to remember something that seems to have been lost in the current debate -- the "But For" test points to the fact that without TIF, the development simply would not occur. Dismantling or creating significant obstacles to the usage of TIF would not seem to make sense if that TIF were

a primary means of creating jobs and generating taxes for public infrastructure in places where that infrastructure is needed. All taxes captured in a TIF district represent new and additional taxes that provide the developer with a reasonable rate of return and the municipal government and residents with the means of paying for and enjoying additional public infrastructure.

While most of us would agree that the definition of "blight" is open to interpretation, local communities should be allowed to make this determination in accordance with existing State law in a way that best serves the community. Allowing local governments to make the determination on the definition of "blight" would provide an additional safeguard to those concerned with the abuse of this definition.

TIF was originally designed and legislated to promote economic development and should be retained for that purpose without imposing onerous new limitations and complexities that would not fully reimburse the municipality for its infrastructure or that might keep the developer from achieving an adequate return on investment which would discourage or eliminate the possibility of development. Increasing the impediments to TIF will prohibit Brownfields redevelopment nationwide.

As you can see, the City of St. Joseph has used a variety of economic tools to help jump-start development in our Brownfields area. Without the support of the Federal Government to provide incentives to encourage the development of Brownfields area, communities across the country would be faced with the challenge of redeveloping vacant underutilized contaminated property with no tools in their toolbox

Thank you for your time and opportunity regarding Brownfields redevelopment issues. If you have any questions with respect to our concerns about these issues, please can contact me at (816) 271-4827.

Sincerely,

A handwritten signature in black ink, appearing to read "Clint Thompson". The signature is fluid and cursive, with the first name "Clint" and last name "Thompson" clearly distinguishable.

Clint Thompson, Director
Planning and Economic Development